

House Bill 1112

By: Representatives Glanton of the 76th, Everson of the 106th, Sellier of the 136th, Hugley of the 133rd, Williams of the 165th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of Georgia taxable net income, so as to provide for an exclusion for certain military retirement income; to provide for procedures, conditions, and limitations; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of Georgia taxable net income, is amended in subsection (a) by revising paragraphs (4) and (5) and adding a new paragraph to read as follows:

"(4)(A) Income received from public pension or retirement funds, programs, or systems the income from which is exempted by federal law or treaty when the income is otherwise included in the taxpayer's federal adjusted gross income.

(B) Except as specifically provided in subparagraph (A) of this paragraph, paragraph (5) of this subsection, and paragraph (7) of this subsection, for taxable years beginning on or after January 1, 1989, and except as specifically provided in paragraph (5.1) of this subsection, for taxable years beginning on or after January 1, 2010, no income from a public pension or retirement fund, program, or system (including those pension or retirement funds, programs, or systems provided for in Title 47) shall be exempt from income taxation in this state, notwithstanding any provision of Title 47 or any other provision of law to the contrary;

(5)(A) Retirement income, other than military retirement income which is excluded pursuant to paragraph (5.1) of this subsection, otherwise included in Georgia taxable net income not to exceed the exclusion amount as follows:

(i) For taxable years beginning on or after January 1, 1989, and prior to January 1, 1990, retirement income not to exceed an exclusion amount of \$8,000.00 per year received from any source;

(ii) For taxable years beginning on or after January 1, 1990, and prior to January 1, 1994, retirement income not to exceed an exclusion amount of \$10,000.00 per year received from any source;

(iii) For taxable years beginning on or after January 1, 1994, and prior to January 1, 1995, retirement income from any source not to exceed an exclusion amount of \$11,000.00;

(iv) For taxable years beginning on or after January 1, 1995, and prior to January 1, 1999, retirement income from any source not to exceed an exclusion amount of \$12,000.00;

(v) For taxable years beginning on or after January 1, 1999, and prior to January 1, 2000, retirement income from any source not to exceed an exclusion amount of \$13,000.00;

(vi) For taxable years beginning on or after January 1, 2000, and prior to January 1, 2001, retirement income not to exceed an exclusion amount of \$13,500.00 per year received from any source;

(vii) For taxable years beginning on or after January 1, 2001, and prior to January 1, 2002, retirement income from any source not to exceed an exclusion amount of \$14,000.00;

(viii) For taxable years beginning on or after January 1, 2002, and prior to January 1, 2003, retirement income from any source not to exceed an exclusion amount of \$14,500.00;

(ix) For taxable years beginning on or after January 1, 2003, and prior to January 1, 2006, retirement income from any source not to exceed an exclusion amount of \$15,000.00;

(x) For taxable years beginning on or after January 1, 2006, and prior to January 1, 2007, retirement income from any source not to exceed an exclusion amount of \$25,000.00;

(xi) For taxable years beginning on or after January 1, 2007, and prior to January 1, 2008, retirement income from any source not to exceed an exclusion amount of \$30,000.00; and

(xii) For taxable years beginning on or after January 1, 2008, retirement income from any source not to exceed an exclusion amount of \$35,000.00.

(B) In the case of a married couple filing jointly, each spouse shall if otherwise qualified be individually entitled to exclude retirement income received by that spouse

up to the exclusion amount, so that the total amount excluded on such joint return may if otherwise allowable be up to twice the individual exclusion amount.

(C) The exclusion provided for in this paragraph shall not apply to or affect and shall be in addition to those adjustments to net income provided for under any other paragraph of this subsection.

(D) A taxpayer shall be eligible for the exclusion granted by this paragraph only if the taxpayer:

(i) Is 62 years of age or older during any part of the taxable year; or

(ii) Is permanently and totally disabled in that the taxpayer has a medically demonstrable disability which is permanent and which renders the taxpayer incapable of performing any gainful occupation within the taxpayer's competence.

(E) For the purposes of this paragraph, retirement income shall include but not be limited to interest income, dividend income, net income from rental property, capital gains income, income from royalties, income from pensions and annuities, and no more than \$4,000.00 of an individual's earned income. Earned income in excess of \$4,000.00, including, but not limited to, net business income earned by an individual from any trade or business carried on by such individual, wages, salaries, tips, and other employer compensation, shall not be regarded as retirement income. The receipt of earned income shall not diminish any taxpayer's eligibility for the retirement income exclusion allowed by this paragraph except to the extent of the express limitation provided in this subparagraph.

(F) The commissioner shall by regulation require proof of the eligibility of the taxpayer for the exclusion allowed by this paragraph.

(G) The commissioner shall by regulation provide that for taxable years beginning on or after January 1, 1989, and ending before October 1, 1990, penalty and interest may be waived or reduced for any taxpayer whose estimated tax payments and tax withholdings are less than 70 percent of such taxpayer's Georgia income tax liability if the commissioner determines that such underpayment or deficiency is due to an increase in net taxable income attributable directly to amendments to this paragraph or paragraph (4) of this subsection enacted at the 1989 special session of the General Assembly and not due to willful neglect or fraud;

(5.1)(A) Military retirement income otherwise included in Georgia taxable net income not to exceed the exclusion amount provided in subparagraph (B) of this paragraph.

(B) For taxable years beginning on or after January 1, 2010, military retirement income from any source not to exceed an exclusion amount of \$50,000.00.

(C) In the case of a married couple filing jointly, each spouse shall if otherwise qualified be individually entitled to exclude retirement income received by that spouse

up to the exclusion amount, so that the total amount excluded on such joint return may if otherwise allowable be up to twice the individual exclusion amount.

(D) The exclusion provided for in this paragraph shall not apply to or affect and shall be in addition to those adjustments to net income provided for under any other paragraph of this subsection.

(E) A taxpayer shall be eligible for the exclusion granted by this paragraph only if the taxpayer:

(i) Is 62 years of age or older during any part of the taxable year; or

(ii) Is permanently and totally disabled in that the taxpayer has a medically demonstrable disability which is permanent and which renders the taxpayer incapable of performing any gainful occupation within the taxpayer's competence.

(F) The commissioner shall by regulation require proof of the eligibility of the taxpayer for the exclusion allowed by this paragraph."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.